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**Department of Energy**

Richland Operations Office  
P.O. Box 550  
Richland, Washington 99352

MAY 4 1994

94-ERB-107

Mr. Russell Jim  
Tribal Council  
Confederated Tribes and Bands  
of the Yakama Indian Nation  
P.O. Box 151  
Toppenish, Washington 98948



Dear Mr. Jim:

**RESPONSE TO YAKAMA NATION DISAGREEMENT WITH INTENT TO CONSTRUCT AND OPERATE THE HANFORD ENVIRONMENTAL RESTORATION DISPOSAL FACILITY (ERDF)**

The Tri-Party agencies appreciate your interest in and comments on the ERDF. We understand that, at present, the Yakama Indian Nation (YIN) disagrees with the proposal to construct and operate the ERDF.

We have identified the following issues from your letter (YIN ltr. to John Wagoner from Russell Jim, "Hanford Environmental Restoration Disposal Facility; Notice of intent to construct and operate (DOE/RL-93-101); Disagreement with because of inadequate Design Criteria for long-term performance--" dtd. February 22, 1994): 1) long term adequacy of the facility; 2) follow the law - need to do an Environmental Impact Statement under the National Environmental Policy Act; 3) recommended design criteria to assure unrestricted usage of the land; and 4) recommendation for required assumption: "no institutional control." During the scoping period (January 10 - February 8, 1994), the public provided valuable input and direction to help define the substantive environmental and regulatory issues that need to be emphasized in the ERDF Regulatory Package. Several potential issues surfaced during the scoping meetings and in written comments. Those issues are: 1) use land wisely; 2) dispose of only Hanford Site wastes; and 3) design and operate a safe facility.

Our response to these issues is provided in the attached responsiveness summary. We recognize that your concerns reflect a genuine interest in protecting and restoring the environment.

The Regulatory Package for the ERDF is scheduled to be released for public review on June 27, 1994. The package will be provided to the YIN for review and comment once the U.S. Department of Energy has received the final draft, prior to June 27, 1994. The Regulatory Package will consist of the necessary documentation to objectively evaluate the proposed facility.

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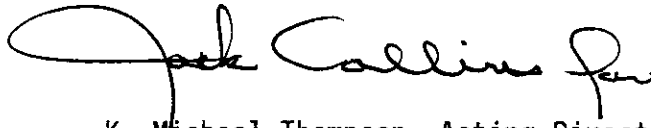
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Again, we appreciate your comments and desire to consult with you in the near future to further discuss both the ERDF and the Columbia River Comprehensive Impact Assessment. Please contact us to finalize a time and location for this consultation. Our purpose is to continue to strive to keep you informed on the progress of these environmental restoration efforts.

Sincerely,



K. Michael Thompson, Acting Director  
Environmental Remediation Division

END:BLF

Attachment

cc w/attach:  
R. Cook, YIN  
N. Hepner, Ecology  
P. Innis, EPA  
M. Janaskie, EM-442  
Admin Record (ERDF), H6-08

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**RESPONSIVENESS SUMMARY  
ENVIRONMENTAL RESTORATION DISPOSAL FACILITY (ERDF)**

- Comment:** Long Term Adequacy of the Facility: The Notice of Intent... "did not address issues associated with the long term adequacy of the facility with respect to environmental risks and values consistent with sustainability and health risks to future generations using the area in culturally traditional ways, including those provided in the Treaty of 1855."
- Response:** The U.S. Department of Energy's submittal (to the regulatory agencies and ultimately to the public) of a Regulatory Package for the ERDF will include a National Environmental Policy Act (NEPA) Roadmap, Remedial Investigation/Feasibility Study and a Resource Conservation and Recovery Act (RCRA) Corrective Action Management Unit (CAMU) Application. An evaluation of the potential risk to human health and the environment that may be posed by the proposed long-term operation of the facility will be presented and explained in the Regulatory Package.
- Comment:** Follow the Law - Need to do an Environmental Impact Statement under NEPA.
- Response:** The YIN is concerned about the roles of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and NEPA processes for the ERDF project. During the recent Hanford Federal Facility Agreement and Consent Order (Tri-Party Agreement) negotiation (concluded in January 1994), the Tri-Parties agreed to minimize duplicative processes and speedup remediation. Accordingly, the ERDF has employed a pilot project concept to demonstrate that CERCLA can be made functionally equivalent to NEPA. CERCLA would be the implementing mechanism for the ERDF facility and NEPA elements will be addressed and included in the Regulatory Package. The U.S. Department of Justice has stated in the past that where agencies other than the U.S. Environmental Protection Agency serve as the lead agency, CERCLA appears to be functionally equivalent to NEPA. More importantly, the Tri-Parties are committed to remediation and believe that eliminating duplicative procedures will allow remediation to proceed in a more expeditious and cost-effective manner. For construction and operation of the proposed ERDF, CERCLA will be the authorizing mechanism. When a CERCLA Record of Decision is issued, the ERDF would be able to accept CERCLA remediation waste. For the RCRA remediation waste, a modification to the Hanford Facility Dangerous Waste Permit is required.
- Comment:** Recommended Design Criteria to Assure Unrestricted Usage of the Land.
- Response:** The YIN recommends "that design criteria be established for the facility that shall allow unrestricted usage of the land over and

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around the facility at 100 years past closure, approximately 130 years hence."

The Regulatory Package evaluation indicates that there will be no significant risk to human health or the environment posed by land usage around the facility 100 years past closure. Furthermore, the evaluation indicates that the land over the facility will be available for use with no significant risk to human health or the environment so long as no excavation occurs and the barrier is not otherwise compromised. In other words, no digging, no construction on top, and no irrigated farming, but it would be compatible with exercise of YIN treaty rights.

Land use has not been decided at this time. It is assumed that the 200 Area will be a permanent waste disposal area. Although the ERDF may not be available for unrestricted use, the concept of centralized disposal of wastes from remediation along the river and throughout the Hanford Site has the potential for "freeing up" a substantial amount of land for future uses.

**Comment:** Recommendation for Required Assumption: "No Institutional Control."

**Response:** The YIN recommends a required assumption as follows: no institutional control at the facility after the 100 year period. They note that this criterion is consistent with the U.S. Ecology commercial facility's disposal criteria for low-level radioactive waste. The U.S. Ecology facility is located adjacent to the proposed ERDF preferred site.

The Regulatory Package evaluation indicates that as long as the integrity of the barrier is not compromised, institutional control of access to the area would not be required. It would seem that there needs to be some controls to protect the integrity of the barrier, but the controls would not need to impede use of the land by wildlife, or for human enjoyment of wildlife, hunting, or gathering of traditional foods.

**Comment:** Use Land Wisely.

**Response:** Several commenters requested that the land on the Central Plateau be used wisely and any land dedicated to waste management be minimized. Many are concerned with the decline of native shrub-steppe habitat in Washington State and the lack of a specific U.S. Department of Energy Plan for management of this disappearing resource. Discussions have been initiated to develop and implement a biological resource management plan.

Based on these comments, the need for the facility, and recommendations of the Hanford Future Sites Uses Working Group, the ERDF alternative using the least amount of land will be presented as the preferred alternative in the Regulatory Package. This burial trench would only be expanded as the Hanford Site remediation progresses. The total area disturbed by ERDF (without

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allocation for contingency) would be reduced to approximately 1.6 square miles. This is a direct result of the evolving trench engineering design concept which allows a significant decrease from the original estimate of 6.12 square miles. While the 1.6 square mile figure does not include contingency space, it is believed that the 1.6 square miles would support the current waste volume estimate of 28 million cubic yards of remediation waste.

There was a request by the public that the 200 BC control area, a surface contaminated site, be considered for siting the ERDF. Based on this comment from the public, an independent study considered the 200 BC control area as a potential site. While the study shows both advantages and disadvantages, it concludes that the disadvantages significantly outweigh the benefits of adopting the 200 BC control area as the preferred site. In summary, the study states that the 200 BC control area should not be chosen as the primary site for the following key reasons: 1) existing contamination causes inherent difficulty with monitoring facility performance during operations and after closure; 2) contaminated surface soils from the 200 BC Area would have to be double handled and will increase contamination exposure to personnel and environment; 3) increased cost of performing work in a contaminated area and the potential problems associated with personnel working in a contaminated area; and 4) switching the preferred site to the 200 BC control area would substantially delay remediation along the Columbia River.

In addition to the flora and fauna inventory accomplished on the preferred site in the Spring of 1993, a comprehensive environmental baseline survey of the ERDF primary site will be completed.

**Comment:** Dispose of Hanford Site Wastes Only.

**Response:** Several commenters were adamant that out-of-state wastes NOT be accepted in the proposed ERDF. The proposed ERDF would operate as a CAMU, which by regulatory definition can only accept Hanford Site remediation waste. No waste from outside the Hanford Site would be accepted in the ERDF. In the beginning, ERDF would be regulated under a CERCLA ROD as a designated CAMU and later would request approval to operate under RCRA as a CAMU. Until the ERDF is permitted under RCRA, the facility would accept only Hanford CERCLA waste. Any permits required for a RCRA unit would be in place when the ERDF begins to accept RCRA remediation waste as a RCRA regulated CAMU. The CAMU restrictions to accept only Hanford Facility remediation waste apply under CERCLA and RCRA.

**Comment:** Design and Operate a Safe Facility.

**Response:** Several commenters provided specific recommendations on the design of the facility. Based on their comments, the ERDF would be double-lined and include a leachate collection system, and a RCRA equivalent final cover for waste isolation. The facility would

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provide permanent disposal for Hanford Site remediation wastes in a manner that isolates the waste from the environment.

Additionally, during facility operation, only wastes compatible with the design of the facility would be accepted. Waste acceptance would be limited to low-level radioactive and mixed wastes. Some decontamination and demolition waste, which is covered by the RCRA debris rule, would be accepted at the ERDF; no newly generated wastes would be allowed. Remediation waste generators would be required to characterize wastes before they are shipped to ERDF; if treatment is required in order to meet waste acceptance criteria, or required by the operable unit ROD, the remediation waste generator would be responsible for accomplishing any necessary waste treatment. When shipped by truck or rail, the remediation wastes would travel no further than fifteen miles, the approximate distance from the Columbia river shore to the Central Plateau. Upgrades to the Hanford Site rail system would be completed as required to safely support shipments to ERDF. To control the release of radioactive contaminants in the air, the ERDF would use dust suppressants and curtail operations during variable or high winds.

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